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FILED

DEC 11 2012

Board of Vocational Nursing
and Psychiatric Technicians

8 **BEFORE THE**
9 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. VN-2010-2391

12 **VINCENT JOHN BALUYOT GOZE**
13 **6470 Gladiola Street**
Corona, CA 92880

A C C U S A T I O N

14 **Vocational Nurse License No. VN 250501**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in
20 her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric
21 Technicians, Department of Consumer Affairs.

22 2. On or about June 15, 2010, the Board of Vocational Nursing and Psychiatric
23 Technicians issued Vocational Nurse Number VN 250501 to Vincent John Baluyot Goze
24 (Respondent). The Vocational Nurse License was in full force and effect at all times relevant to
25 the charges brought herein and will expire on March 31, 2014.

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JURISDICTION

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 118, subdivision (b), of the Code states:

The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

5. Section 2875 of the Code provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

6. Section 2892.1 of the Code states:

Except as provided in Sections 2892.3 and 2892.5, an expired license may be renewed at any time within four years after its expiration upon filing of an application for renewal on a form prescribed by the board, payment of all accrued and unpaid renewal fees, and payment of any fees due pursuant to Section 2895.1.

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STATUTORY PROVISIONS

7. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

....

(b) Considering suspension of a license under Section 490. Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

8. Section 490 of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the licensee has been convicted of a crime substantially related to the qualifications, functions or duties of a licensed vocational nurse.

1 9. Section 493 of the Code provides, in pertinent part, that the record of conviction of a
2 crime shall be conclusive evidence of the facts that the conviction occurred, but only of that fact,
3 and the board may inquire into the circumstances surrounding the commission of the crime in
4 order to fix the degree of discipline or to determine if the conviction is substantially related to the
5 qualifications, functions, and duties of the licensee in question.

6 10. Section 2878 of the Code states:

7 The Board may suspend or revoke a license issued under this chapter [the
8 Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the
9 following:

10 (a) Unprofessional conduct, which includes, but is not limited to, the
11 following:

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13 (e) Making or giving any false statement or information in connection with the
14 application for issuance of a license.

15 (f) Conviction of a crime substantially related to the qualifications, functions,
16 and duties of a licensed vocational nurse, in which event the record of the conviction
17 shall be conclusive evidence of the conviction.

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19 11. Section 2878.5 of the Code states, in pertinent part:

20 In addition to other acts constituting unprofessional conduct within the meaning of this
21 chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed
22 under this chapter to do any of the following:

23

24 (b) Use of any controlled substance as defined in Division 10 of the Health
25 and Safety Code, or any dangerous drug as defined in Article 8 (commencing with
26 Section 4210 of Chapter 9 of Division 2 of this code, or alcoholic beverages, to an
27 extent or in a manner dangerous or injurious to himself or herself, any other person,
28 or the public, or to the extent that such use impairs his or her ability to conduct with
safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving possession of any narcotic or
dangerous drug, or the prescription, consumption, or self-administration of any of the
substances described in subdivision (a) an (b) of this section, in which event the
record of conviction is conclusive evidence thereof.

....

REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 2518.6 states:

....

(b) A licensed vocational nurse shall adhere to standards of the profession and shall incorporate ethical and behavioral standards of professional practice which include but are not limited to the following:

....

(4) Abstaining from chemical/substance abuse; and

....

13. California Code of Regulations, title 16, section 2521, states, in pertinent part:

For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed vocational nurse to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

(a) Procuring a license by fraud, misrepresentation, or mistake.

(b) A conviction of practicing medicine without a license in violation of Chapter 5 of Division 2 of the Business and Professions Code.

(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of Chapter 6.5, Division 2 of the Business and Professions Code.

(d) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a licensed physician or not, in the performance of or arranging for a violation of any of the provisions of Article 13, Article 5, Division 2 of the Business and Professions Code.

(e) Conviction of a crime involving fiscal dishonesty.

(f) Any crimes involving the sale, gift, administration, or furnishing of "narcotics or dangerous drugs or dangerous devices" as defined in Section 4022 of the Business and Professions Code.

14. California Code of Regulations, title 16, section 2522 states, in pertinent part:

When considering . . . b) the suspension or revocation of a license on the ground that a licensee has been convicted of a crime, . . . the Board in evaluating the rehabilitation of an individual and his or her present eligibility for a license, will consider the following criteria:

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1 (1) Nature and severity of the act(s), offense(s), or crime(s) under
consideration.

2 (2) Actual or potential harm to the public.

3 (3) Actual or potential harm to any patient.

4 (4) Overall disciplinary record.

5 (5) Overall criminal actions taken by any federal, state or local agency or
6 court.

7 (6) Prior warnings on record or prior remediation.

8 (7) Number and variety of current violations.

9 (8) Mitigation evidence.

10 (9) In case of a criminal conviction, compliance with terms of sentence and/or
court-ordered probation.

11 (10) Time passed since the act(s) or offense(s) occurred.

12 (11) If applicable, evidence of proceedings to dismiss a conviction pursuant to
13 Penal Code section 1203.4.

14 (12) Cooperation with the Board and other law enforcement or regulatory
agencies.

15 (13) Other rehabilitation evidence.

16 COST RECOVERY

17 15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
18 administrative law judge to direct a licensee found to have committed a violation or violations of
19 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
20 enforcement of the case.

21 FIRST CAUSE FOR DISCIPLINE

22 (October 10, 2007 Criminal Conviction for Disturbing Another By Loud and Unreasonable Noise on July 19, 2007)

23 16. Respondent is subject to disciplinary action under Code sections 490 and 2878,
24 subdivision (f), in that Respondent was convicted of a crime that is substantially related to the
25 qualifications, functions, and duties of a vocational nurse. The circumstances are as follows:

26 a. On or about October 10, 2007, in the Superior Court of California, County of San
27 Bernardino, in the case entitled *People of the State of California vs. Vincent J. Goze*, Case
28 No. MSB706173, Respondent was convicted on his plea of guilty of violating Penal Code section

1 415(2) (disturbing another by loud and unreasonable noise), a misdemeanor. Pursuant to a plea
2 bargain, a charge of violating Penal Code section 242 (battery), a misdemeanor, was dismissed.

3 b. As a result of the conviction, Respondent was ordered serve one day in the county
4 jail, with one day credit for time served, placed on one year probation, ordered to violate no laws,
5 pay various fines, fees, and restitution to the victim, and have no negative contact with the victim.

6 c. The circumstances that led to the above conviction are that on July 19, 2007, at
7 approximately 9:50 p.m., Colton Police Department Officers were dispatched to 1250 East
8 Cooley, Colton, California, (Summit Career College) regarding a battery that had just occurred.
9 Upon arrival, officers made contact with the victim, J.A., who told officers that he had just had a
10 verbal altercation that turned physical with a student from the college (Respondent). J.A. told
11 officers that he was a security guard at the college, that he had observed Respondent was not
12 wearing his identification badge from the college per the college's rules and regulations, and that
13 when J.A. approached Respondent to remind him to put on his badge, Respondent became
14 belligerent and told J.A., "You got a problem with me, mother f____, let's fight if you have a
15 problem," and although J.A. attempted to difuse the situation, J.A. was unsuccessful and
16 Respondent proceeded to push J.A. several times, ripped the badge off J.A.'s uniform and threw
17 the badge to the ground. J.A. placed Respondent under citizen's arrest and called police.

18 SECOND CAUSE FOR DISCIPLINE

19 **(February 22, 2010 Criminal Conviction for Driving With a Blood Alcohol Content of** 20 **0.08% or More on December 16, 2009)**

21 17. Respondent is subject to disciplinary action under Code sections 490 and 2878,
22 subdivision (f), in that Respondent was convicted of a crime that is substantially related to the
23 qualifications, functions, and duties of a vocational nurse. The circumstances are as follows:

24 a. On or about February 22, 2010, in the Superior Court of California, County of
25 Riverside, in the case entitled *People of the State of California vs. Vincent J. Goze*, Case
26 No. ORI00249, Respondent was convicted on his plea of nolo contendere of violating Vehicle
27 Code sections 23152(b) (driving with a blood alcohol content of 0.08% or more [0.18%]), a
28

1 misdemeanor. As a result of a plea agreement, a charge of violating Vehicle Code section
2 23152(a) (DUI) was dismissed.

3 b. As a result of the conviction, Respondent was placed on three years summary
4 probation, ordered to pay various fines and fees, not drive with a measurable amount of alcohol or
5 drugs in blood nor refuse to take and complete a blood or alcohol chemical test, not drive a motor
6 vehicle without a valid driver's license and liability insurance, obey all laws and orders of the
7 court, obey all rules and regulations of the probation department, and enroll in and complete a
8 9-month alcohol program.

9 c. The facts that led to Respondent's conviction are that on December 16, 2009, at
10 approximately 6:30 p.m., the California Highway Patrol received a call of a reckless driving on
11 SR-60 eastbound at I-710. The reporting party described the vehicle as a silver Buick and told
12 the dispatcher that she had almost collided with the vehicle. Officers responded to SR-60
13 eastbound, east of Downey Road, and observed the Buick driving at a high rate of speed with the
14 driver driving on the median, changing lanes to pass slower vehicles, and flashing high beams on
15 and off trying to get other vehicles to move. Officers activated their lights and stopped the
16 vehicle which was being driven by Respondent. Respondent told officers he was taking his kids
17 home. Officers smelled a strong odor of an alcoholic beverage emitting from the vehicle and
18 Respondent's eyes to be bloodshot and watery and his speech slurred. When officers asked
19 Respondent to exit the vehicle, he became argumentative and confrontational, telling officers he
20 could not leave his children in the vehicle. Officers smelled an odor of an alcoholic beverage
21 emitting from Respondent's breath and person and his speech was extremely slurred. Respondent
22 denied consuming alcohol. Respondent failed field sobriety tests and at the conclusion of the
23 tests, Respondent told officers he needed to urinate and wanted to urinate on the right shoulder of
24 the freeway. Officers informed Respondent that he could not and Respondent proceeded to walk
25 away from officers attempting to urinate in front of the patrol vehicle. Respondent was detained
26 and placed in handcuffs and, while waiting for a unit to arrive at the scene to transport
27 Respondent to the station, Respondent told the officer, "I want to punch you in the face."
28 Respondent approximately 7:20 p.m., Respondent provided two breath samples while officers

1 used a Preliminary Alcohol Test (PAS) device, and the results were .197 and .188 at 1923 hours.
2 Respondent was arrested and transported to the East Los Angeles CHP office where Respondent
3 provided two more breath samples at approximately 8:20 p.m., which results were .18 and .17.
4 Respondent's children were released to their mother.

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6 **THIRD CAUSE FOR DISCIPLINE**

7 **(December 5, 2011 Criminal Conviction for Driving With a Blood Alcohol Content of 0.08%
8 or More [0.08%] on December 17, 2010)**

9 18. Respondent is subject to disciplinary action under Code sections 490 and 2878,
10 subdivision (f), in that Respondent was convicted of a crime that is substantially related to the
11 qualifications, functions, and duties of a vocational nurse. The circumstances are as follows:

12 a. On or about December 5, 2011, in the Superior Court of California, County of
13 Riverside, in the case entitled, *People of the State of California vs. Vincent John Goze*, Case No.
14 RIM1104325, Respondent was convicted on his plea of guilty of violating Vehicle Code section
15 23152(b) (driving with a blood alcohol content of 0.08% or more), a misdemeanor, and admitted
16 a prior conviction for violating 23152(b). As a result of a plea bargain, a charge of violating
17 Vehicle Code sections 23152(a) (driving under the influence of alcohol), and 20001(A) (failure to
18 stop at scene of accident), misdemeanors, were dismissed.

19 b. As a result of the conviction, the Court placed Respondent on four years summary
20 probation and ordered that Respondent serve 20 days in the custody of the Riverside County
21 Sheriff, with 7 days credit for time served, with the remaining 13 days to be served in the Work
22 Release Program, and ordered Respondent to pay various fines and fees. The Court also ordered
23 that Respondent not drive with any measurable amount of alcohol or drugs in his blood, not drive
24 unless properly licensed and insured, enroll in and complete a Drinking Driver Program, and not
25 leave the State California without first obtaining written permission from the Probation
26 Department. The Court further ordered Respondent to pay various fees and fines, and to pay
27 restitution to the victim in an amount to be determined by the Probation Department.

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1 c. The facts that led to Respondent's conviction are that on December 17, 2010, at
2 approximately 7:15 p.m., California Highway Patrol Officers responded to a call of a collision
3 and hit and run that occurred in the area of Limonite and Hammer Avenues in the City of
4 Eastvale. Upon arrival, officers found that both vehicles involved in the accident had left the
5 scene and later found out that the vehicle that was rear-ended attempted to have the vehicle
6 responsible for the hit and run stop, but the vehicle left the scene. The driver of vehicle #1 gave
7 officers the license plate number of the vehicle responsible and, when the license plate was run, it
8 came back to an address on Gladiola Street in the City of Eastvale.

9 d. Officers went by the address on Gladiola Street and located the vehicle responsible
10 for the hit and run parked in the driveway of 6470 Gladiola Street. Officers knocked on the door
11 of the residence and Respondent's father answered the door. Respondent's father told officers
12 that his son had most recently driven the vehicle in question and directed them to one of his sons,
13 V.G. When officers interviewed V.G., they found that he did not look anything like the
14 description obtained from witnesses at the accident scene. In talking to V.G., officers learned that
15 he was the brother of Respondent, that Respondent had come home approximately 20 minutes
16 prior breathing heavily and told V.G. and their father that he had just run into someone with his
17 car and had had a lot to drink. V.G. told officers that his father then directed V.G. to tell anyone
18 inquiring that Respondent was not in the house and sent Respondent upstairs to one of the
19 bedrooms and told him not to come out. V.G. apologized to officers and told officers his brother
20 (Respondent) was upstairs in the third bedroom. Officers waited for back-up, then went upstairs
21 and found Respondent inside one of the bedrooms severely intoxicated. Respondent could not get
22 out of bed without assistance. Officers assisted Respondent and took him outside of the residence
23 and placed him under arrest. Respondent's blood was drawn approximately two and one half
24 hours after the hit and run collision and the results were 0.08% BAC.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct – Use of Alcohol in a Dangerous Manner)**

3 19. Respondent is subject to disciplinary action under Code section 2878(a) on the
4 grounds of unprofessional conduct, as defined by Code section 2878.5(b) in that on or about
5 December 16, 2009 and December 17, 2010, Respondent used alcohol to an extent or in a manner
6 dangerous to herself and/or the public, as is more fully detailed at paragraphs 17 and 18, above,
7 which are incorporated here by reference.

8 **FIFTH CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct - Conviction of a Drug or Alcohol Related Crime)**

10 20. Respondent is subject to disciplinary action under Code section 2878(a) on the
11 grounds of unprofessional conduct, as defined by Code section 2878.5(c) in that on or about
12 February 22, 2010 and December 5, 2011, Respondent was convicted of driving under the
13 influence of alcohol and driving with a blood alcohol content of 0.08% or more as is more fully
14 detailed at paragraphs 17 and 18, above, which are incorporated here by reference.

15 **SIXTH CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct – Commission of Acts Involving Dishonesty – Making a False
17 Statement of Fact Required to Be Revealed on Application)**

18 21. Respondent is subject to disciplinary action under Code section 2878(a) on the
19 grounds of unprofessional conduct, as defined by Code section 2878(e), in that he made a false
20 statement of fact required to be revealed in his original application to the Board, a dishonest act.
21 The circumstances are that on or about March 9, 2009, Respondent signed his Application for
22 Vocational Nurse Licensure certifying under penalty of perjury under the laws of the State of
23 California that his answers in the application were true and correct. Also on March 9, 2009,
24 Respondent signed under penalty of perjury his Record of Conviction form that accompanied the
25 application. In response to question number 7, "HAVE YOU EVER BEEN CONVICTED OF
26 ANY OFFENSE, INCLUDING TRAFFIC VIOLATIONS?" Respondent replied "Yes," but
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disclosed only an August 28, 2007 infraction for speeding and failed to disclose the October 10, 2007 conviction detailed in paragraph 16, above, which is incorporated here by reference.¹

SEVENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Commission of Acts Involving Dishonesty – Making a False Statement of Fact Required to Be Revealed on Renewal Application)

22. Respondent is subject to disciplinary action under Code section 2878(a) on the grounds of unprofessional conduct, as defined by Code section 2878(e), in that he made a false statement of fact required to be revealed in his renewal application to the Board, a dishonest act. The circumstances are that on or about January 6, 2012, Respondent signed his Renewal Application for Vocational Nurse Licensure certifying under penalty of perjury under the laws of the State of California that his answers in the renewal application were true and correct. In response to question number 11, "SINCE YOUR LAST RENEWAL, HAVE YOU HAD ANY LICENSE DISCIPLINED BY A GOVERNMENT AGENCY OR BEEN CONVICTED OR PLED GUILTY TO ANY CRIME? . . .," Respondent replied, "Yes" and only disclosed the conviction of December 15, 2011, for driving under the influence of alcohol with a blood alcohol content of 0.08% or more, which is the subject of Cause for Discipline Three, and failed to disclose the conviction of February 22, 2010 for driving under the influence of alcohol with a blood alcohol content of 0.08% or more, which is the subject of Cause for Discipline Two, and which is incorporated here by reference.²

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians issue a decision:

¹ On May 26, 2010, prior to licensure, the Board mailed Respondent a letter informing the Board had completed its review of his criminal history, which to date included the convictions of October 10, 2007 and February 22, 2010 (Causes for Discipline One and Two, respectively). The Board informed Respondent it would not pursue any disciplinary action against him at that time as long as he remained in compliance with the terms of his sentencing and had no other alcohol related violations. The Board licensed Respondent on June 15, 2010.


² The February 22, 2010 conviction occurred after the date of Respondent's original application of March 9, 2009.

1 1. Revoking or suspending Vocational Nurse Number VN 250501 issued to Vincent
2 John Baluyot Goze;

3 2. Ordering Vincent John Baluyot Goze to pay the Board of Vocational Nursing and
4 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,
5 pursuant to Business and Professions Code section 125.3;

6 3. Taking such other and further action as deemed necessary and proper.

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8 DATED: **DEC 11 2012**


TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

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